

City Council Introduction: **Monday**, June 21, 2004
Public Hearing: **Monday**, June 28, 2004, at **5:30 p.m.**

Bill No. 04-120

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 04013**, from AG Agricultural District to R-3 Residential District, requested by Lyle Loth of ESP on behalf of Hartland Homes, Inc., on property generally located at N.W. 56th Street and W. Thatcher Lane.

STAFF RECOMMENDATION: Approval

ASSOCIATED REQUESTS: Annexation No. 03008 (04-119) Annexation Agreement (04R-143); and Special Permit No. 2045, Hartland's Cardinal Heights 2nd Addition Community (04R-144).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 03/17/04
Administrative Action: 03/17/04

RECOMMENDATION: Approval (8-0: Larson, Carroll, Sunderman, Carlson, Taylor, Marvin, Pearson and Bills-Strand voting 'yes'; Krieser absent).

FINDINGS OF FACT:

1. This change of zone request and the associated annexation and community unit plan were heard at the same time before the Planning Commission. The proposal is to develop 56 lots in R-3 zoning. Most of the property is already zoned R-3, except for 1 acre that is zoned AG and is being requested for R-3 in this application.
2. The staff recommendation to approve the change of zone request is based upon the "Analysis" as set forth on p.4-5, concluding that, with the conditions of approval on the community unit plan, the proposal is in conformance with the Comprehensive Plan, the zoning ordinance and the subdivision ordinance.
3. The applicant's testimony is found on p.6.
4. There was no testimony in opposition; however, the record consists of a letter from David Chambers (p.10) advising of the private landing strip which he owns northwest of the proposed development. The staff response to the private landing strip is found on p.11, and a condition of approval was added to the associated community unit plan to disclose this information in the subdivision agreement.
5. On March 17, 2004, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval of the change of zone request.
6. The applicant is expected to contest one of the conditions of the annexation agreement at the City Council hearing (See 04R-143).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: June 14, 2004

REVIEWED BY: _____

DATE: June 14, 2004

REFERENCE NUMBER: FS\CC\2004\CZ.04013

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for February 4, 2004 PLANNING COMMISSION MEETING

****As revised by staff and recommended for conditional approval by Planning Commission
on March 17, 2004****

P.A.S.: Annexation #03008, **Change of Zone #04013**, Special Permit #2045

PROPOSAL: To create 56 lots, annex approximately 20 acres and change the zoning on a portion from AG, Agriculture to R-3, Residential.

LOCATION: NW 56th Street and W. Thatcher Lane.

WAIVER REQUEST:

- Eliminate the preliminary plat process
- Allow sanitary sewer lines to run opposite street grades
- Allow the transfer of sanitary sewer from one basin to another
- Allow lots to exceed the 3:1 lot depth to width ratio
- Allow lots with less than the minimum required lot width
- Allow lots with less than the minimum required area

LAND AREA: 20.92 acres, more or less (annexation and CUP)
Less than 1 acre (change of zone)

CONCLUSION: With conditions the proposal is in conformance with the Comprehensive Plan, Zoning and Subdivision Ordinances.

RECOMMENDATION:

Annexation #03008

Approval

Change of Zone #04013

Approval

Special Permit #2045

Conditional Approval

Eliminate the preliminary plat process

Approval

Allow sanitary sewer lines to run opposite street grades

Approval

Allow the transfer of sanitary sewer from one basin to another

Approval

Allow lots to exceed the 3:1 lot depth to width ratio

Approval

Allow lots with less than the minimum required lot width

Approval

Allow lots with less than the minimum required area

Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: See two attached legal descriptions.

EXISTING ZONING: R-3, Residential and AG, Agriculture.

EXISTING LAND USE: Farm.

SURROUNDING LAND USE AND ZONING:

North:	Undeveloped	R-3, Residential
South:	Undeveloped	AG, Agriculture
East:	Residential	R-3
West:	Undeveloped	AG

HISTORY: The original submittal (11/26/03) was for the entire 80 acre tract owned by the applicant, however, it was determined that the entire tract could not be served with either water or sanitary sewer. Therefore, the application was reduced to the eastern 20 acres, as it is now presented.

The area was zoned A-2, Single Family Dwelling District until it was updated to R-3, Residential during the **1979** zoning update. The zoning classification followed what the Public Works and Utilities Department believed could be provided with sewer, but did not reflect whether or not there was water pressure.

COMPREHENSIVE PLAN SPECIFICATIONS: This area is shown as Urban Residential in the Comprehensive Land Use Plan. (F-25)

The area is shown within the future service limit. (F-27)

Guiding Principles for New Neighborhoods indicates:

“Encourage a mix of housing types, single family, townhomes, apartments, elderly housing all within one area; Similar housing types face each other: single family faces single family, change to different use at rear of lot; Parks and open space within walking distance of all residences; Multi-family and elderly housing nearest to commercial area; Pedestrian orientation; shorter block lengths, sidewalks on both sides of all roads; Public uses (elementary schools, churches) as centers of neighborhood – shared facilities (city parks & school sites)”. (F-67)

“Natural and environmentally sensitive areas should be preserved within neighborhoods. Conservation areas and open lands should be used to define and connect different neighborhoods”. (F-17)

UTILITIES: Will be provided in NW 56th Street.

TOPOGRAPHY: Sloping to the middle of the plat with a drainage depression running north-south through the center of the plat. The area drains south toward Outlot B, which is the lowest point of the plat and is shown for stormwater drainage.

TRAFFIC ANALYSIS: NW 56th Street is presently a two lane gravel road. The development east of this property was required to pave NW 56th Street as part of that development. NW 56th Street is shown as an urban minor arterial. Internal streets are all local.

A pedestrian trail is shown along Adams Street and NW 48th Street (F-95).

The boundaries of the plat are within the turning zone of the Airport Zoning Map. The Airport Zoning regulations indicate that areas within the turning zone shall not have a height in excess of 150 feet above the elevation at the closest point on the nearest runway, which is the south runway with a height of 1195.45 NAVD 1988. The applicant needs to note this on the plan.

PUBLIC SERVICE: The nearest fire station is #11, Lincoln Air Park West at 3401 NW Luke Street, approximately 1.25 miles from this site. Olympic Heights Public Park is to the northeast of this plat.

The Parks and Recreation Department determined they did not want park land dedication with this plat and opted for the collection of impact fees.

REGIONAL ISSUES: Much of this area, not including the area of the special permit, has elevations higher than can be provided with adequate water pressure for residential uses. Due to the lack of water pressure much of the land north and west of this site cannot be developed until water pressure issues are resolved.

ENVIRONMENTAL CONCERNS: The developer is preserving a stand of trees in Outlot B. The land to the north is very unique, including deep gullies and is heavily wooded for Lancaster County.

AESTHETIC CONSIDERATIONS: The preservation of existing mature trees is a wonderful asset to this project.

ANALYSIS:

1. This is a request to annex approximately 20 acres and develop 56 lots. Most of the area is already zoned R-3, Residential. The developer agreed to preserve most of the existing trees by showing them in Outlot B.
2. When the existing zoning line was created, the intent was to follow the ridge line to indicate the sewerable area. At the time, the technology was not detailed enough and the zoning line must be adjusted. The request for the change of zone follows the ridgeline and indicates the area which can be served with sanitary sewer. The Public Works and Utilities Department agrees with this interpretation of the contours and does not object to the request.
3. The developer requests waivers which are consistent with many community unit plans, including allowing lots to exceed the 3:1 lot depth to width ratio, allowing lots with less than the minimum required lot width, and allowing lots with less than the minimum required area. Planning staff recommends approval to these waivers because they are consistent with the intent of the CUP ordinance in allowing creative methods to preserve natural features. An existing tree mass is being preserved in Outlot B.
4. The Public Works and Utilities Department indicated they do not oppose the waiver requests because of the following reasons: The requested waiver for running sanitary sewer opposite street grade is acceptable as it does not cause the sewer depth to be in excess of design standards. The requested waiver for transferring sewer from one basin to another is acceptable to Public Works as the Waste Water section has stated that the addition of this plat does not cause capacity problems down stream.

5. The Public Works and Utilities Department indicated that according to the grading and drainage plan, portions of the project are to drain to the proposed detention cell via a storm sewer system. The pipe sizing calculations shown on the grading and drainage plan do not reflect this assumption and must be revised.
6. The Building and Safety Department Fire Prevention/Life Safety Code section indicated the site plan is deficient in showing fire hydrants.
7. The Public Works and Utilities Department Watershed Management section indicated that a geotechnical engineer or a professional geologist must certify that the soil data supplied from the soil survey maps is still appropriate. If the soil survey maps are not appropriate, a subsurface investigation shall be performed and an explanation on how the soil properties will affect the development shall be submitted (26.15.020-e)

Prepared by:

Becky Horner, 441-6373, rhomer@ci.lincoln.ne.us
Planner

DATE: February 12, 2004

APPLICANT: Lyle Loth
ESP
601 Old Cheney Road, Suite A
Lincoln, NE 68512
(402)421-2500

OWNER: Hartland Homes, Inc.
P.O. Box 22787
Lincoln, NE 68542-2787

CONTACT: Lyle Loth
(402)421-2500

**ANNEXATION NO. 03008,
CHANGE OF ZONE NO. 04013
and
SPECIAL PERMIT NO. 2045,
HARTLAND'S CARDINAL HEIGHTS 2ND ADDITION
COMMUNITY UNIT PLAN**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 17, 2004

Members present: Larson, Carroll, Sunderman, Carlson, Taylor, Marvin, Pearson and Bills-Strand; Krieser absent.

Staff recommendation: Approval of the annexation and change of zone, and conditional approval of the community unit plan.

Ex Parte Communications: None.

Ray Hill of Planning staff submitted new information for the record, including a letter from David Chambers, not in opposition, but bringing attention to the fact that he owns land to the north of this area with a private landing strip. Hill also submitted revised conditions of approval, including a condition that future land owners be made aware of the landing strip that exists to the north. The revised staff recommendation also contains a long list of standard conditions found in the approval of a preliminary that were not included with the original conditions. These additional conditions have been provided to the applicant and the applicant is agreeable.

Proponents

1. Duane Hartman of Hartland Homes, the applicant, 6230 S. 31st Street, appeared to answer any questions and agreed with the additional conditions of approval.

Marvin inquired as to how often there are flights occurring on the private landing strip. Hartman did not know but he believes it is fairly infrequently used.

There was no testimony in opposition.

ANNEXATION NO. 03008

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 17, 2004

Carlson moved approval, seconded by Larson and carried 8-0: Larson, Carroll, Sunderman, Carlson, Taylor, Marvin, Pearson and Bills-Strand voting 'yes'; Krieser absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 04013

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 17, 2004

Carlson moved approval, seconded by Larson and carried 8-0: Larson, Carroll, Sunderman, Carlson, Taylor, Marvin, Pearson and Bills-Strand voting 'yes'; Krieser absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 2045

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 17, 2004

Carlson moved to approve the revised staff recommendation of conditional approval, seconded by Larson and carried 8-0: Larson, Carroll, Sunderman, Carlson, Taylor, Marvin, Pearson and Bills-Strand voting 'yes'; Krieser absent. This is a recommendation to the City Council.



Change of Zone #04013 NW 56th & W. Holdrege St.

2002 aerial

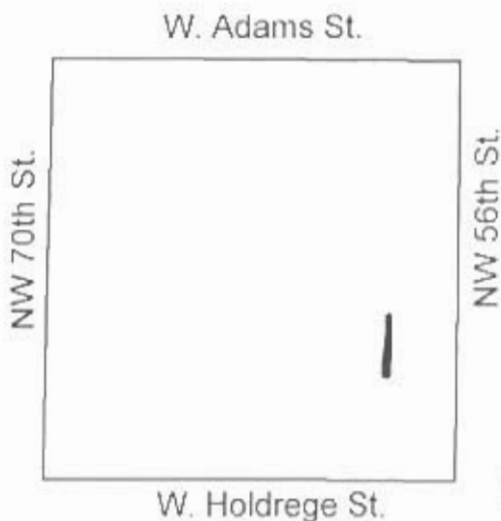
Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Career District
P	Public Use District

One Square Mile
Sec. 13 T10N R5E



Zoning Jurisdiction Lines
City Limit Jurisdiction



008

Change of Zone request

LEGAL DESCRIPTION

A part of the North Half of the Southeast Quarter of Section 13, Township 10 North, Range 5 East of the 6th P.M. Lancaster County, more particularly described as follows:

Beginning at the Southeast Corner of said North Half and extending thence N 00°00'00" E. 1320.16 feet to the East Quarter Corner of said Section 13:

Thence S 89°56'40" W. 390.00 feet;

Thence S 00°00'00" W. 555.80 feet;

Thence N 90°00'00" W. 495.30 feet;

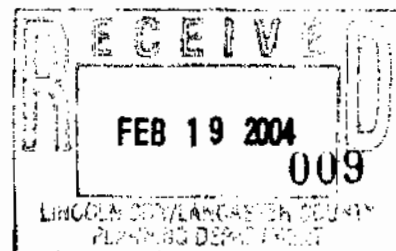
Thence S 00°00'00" W. 190.00 feet;

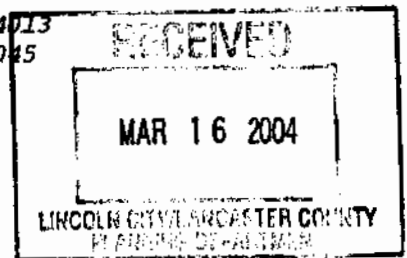
Thence S 07°22'36" W. 352.88 feet;

Thence S 00°00'17" E. 224.10 feet;

Thence N 89°59'43" E. 930.59 feet to the point of beginning containing 20.92 acres, more or less, *except that part already*

zoned R-3.





March 14, 2004

Lincoln-Lancaster Planning Department
555 South 10th St.
Suite 13
Lincoln NE 68508

RE: Hearing on Annexation No. 03008

Dear Planning Commission,

As an adjoining landowner to the proposed annexation I do not formally object to this proposed annexation. However, I do want to note for the record of this hearing that I own and operate a private airstrip next to the proposed annexation. The runway runs from the northwest to the southeast. Flights of departure and arrival fly over part of the proposed annexation and change of zone from Ag to residential.

The airstrip has been in use for some twenty five years. Several years ago LES proposed construction of a high voltage line across the south end of the runway but changed the route of the line due to the established runway. The land surrounding the runway is now in a CRP contract but the area of the runway is taken out of the CRP contract because of its specific use. Note the highlighted area on the map mailed to me. The green highlighted area is the runway. Although there is minimal use of the runway, it is in constant use and has a lighting system for night landings. For further confirmation of the existence of the airstrip which is known as "Chambers Airstrip" by the Lincoln control tower, feel free to contact the airport control tower at the Lincoln Airport. (402) 474 -3011.

Approach and departure flight paths can be made from the west so there is minimum activity over the proposed residential area but I do not want to have my airstrip shut down at some future time due to the housing. If the future property owners can agree to some type of waiver for the operation of the airstrip perhaps that would achieve the objective and not delay the change of zoning.

I ask that this letter and marked map be made a part of the record of the above mentioned hearing.

David L Chambers 2307 Stone Creek Loop S. Lincoln NE 68512

David L. Chambers

MEMORANDUM

TO: Planning Commission
FROM: Becky Horner, Planning
SUBJECT: Hartland's Cardinal Heights 2nd Addition SP #2045 BH
DATE: March 17, 2004
COPIES: Applicant
File

The private landing strip to the north of this proposal is not regulated by the State Aeronautics Department, and to our knowledge no other group. It is outside the city limits and exists as a pre-existing special permit, although, no pre-existing special permit has been assigned. The Law Department indicated that the rights to the landing strip remain, regardless of the proposed development. It would be advantageous of the landing strip owner to request a formal pre-existing special permit to establish a record of the use. The owner may continue the same use in perpetuity, if he desires to expand the use, the pre-existing special permit must be amended through a public hearing process.

In order to provide full information to the prospective buyers of the property, Planning Staff recommends the following condition be added to the staff report:

Revise the site plan to:

"Show a note on the site plan indicating the developer will disclose in the subdivision agreement that a private landing strip exists to the northwest of this property."

Additionally, since the preliminary plat was waived, the following standard subdivision conditions must be included:

3.3 Final Plats shall be approved by the City after:

3.3.1 The sidewalks, streets, drainage facilities, street lighting, landscape screens, street trees, temporary turnarounds and barricades, and street